

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘D’

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 2158/Ahd/2017

निर्धारण वर्ष/Assessment Year: 2013-14

Kevdabaug Navapura Sahakari Mandali Ltd. Navapura, Muslim Mohalla Baroda 390 001. PAN : AADFK 7671 G	Vs	ACIT, Panchamahhal Circle Godhra.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :	Shri Sarkar Sharma, AR
Revenue by :	Shri V.K. Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 27/06/2018

घोषणा की तारीख /Date of Pronouncement : 09/07/2018

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Present appeal is directed at the instance of the assessee against order of Id.CIT(A)-3, Vadodara dated 31.7.2017 passed for the Asstt.Year 2013-14 whereby the assessee has challenged non-allowance of deduction under section 80P(2)(a)(i) of the Income Tax Act, 1961.

3. At the outset, the Id.DR submitted that issue is covered in favour of the assessee by the judgment of the Hon'ble jurisdictional High Court in the case of State Bank of India Co-operative Society Vs. CIT, 72 taxmann.com 64 (Guj) wherein it has been held that cooperative society engaged in the business of providing credit facilities to its members

which earns interest income on the surplus funds parked with the nationalised banks, is not eligible for deduction under section 80P of the Act. Since impugned orders of Revenue authorities are in terms of judgment of the Hon'ble High Court cited supra, no interference thereof is required and the appeal of the assessee may be dismissed. However, the Id.counsel for the assessee does not contest judgment of Hon'ble Gujarat High Court, but submitted that in case claim of the assessee is not found to be admissible, then proportionate administrative and financial expenses incurred for earning such interest/investment income be allowed to the assessee.

4. Having heard both the parties and on perusal of the record, we find that Assessee being a cooperative society and engaged in providing credit facilities to its members has claimed deduction under section 80P for the interest income earned on FDRs. with the financial institutions. This claim was denied by the AO on the ground that provisions of section 80P(2)(a)(i) does not cover assessee-society. The Id.CIT(A) upheld the order of the AO by relying upon the judgment of Hon'ble jurisdictional High Court in the case of State Bank of India Co-operative Society (supra). We find that Hon'ble jurisdictional High Court has held that interest earned from investment made in nationalized bank by a cooperative society engaged in providing credit facilities to its members, is not eligible for deduction under section 80P. The Tribunal in earlier occasions on similar issue has taken a consistent view by following above judgment of the Hon'ble jurisdictional High Court. Since orders of the Revenue authorities are in accordance with the judgment of the Hon'ble jurisdictional High Court cited supra, no interfere is called for in the impugned orders, which we confirm. However, any expenditure

incurred by the assessee for earning such income could be allowed to it, if not already allowed. In other words, the Id.AO has to determine the net interest income as well as misc. income earned by the assessee, and only thereafter that income has to be excluded from the admissibility of deduction under section 80P of the Act.

5. In the result, appeal of the assessee is partly allowed for statistical purpose.

Pronounced in the Open Court on 9th July, 2018.

**Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**